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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 May 1997, at 10 a.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS (agenda item 7) (continued)

(b) REPORTS SUBMITTED BY SPECIALIZED AGENCIES IN ACCORDANCE WITH ARTICLE 18 OF THE COVENANT

United Nations Food and Agriculture Organization (FAO)

1. The CHAIRPERSON invited Mr. Moore, FAO Legal Adviser, to present the decisions of the World Food Summit on the question of human rights, in particular the right to food.

2. Mr. MOORE (FAO) said that the World Food Summit, held in Rome from 13 to 17 November 1996, had been convened in response to the intolerable plight of more than 800 million people throughout the world, particularly in the developing countries, who did not have enough food to meet their basic nutritional needs. At the Summit, the world's highest leaders had adopted the Rome Declaration on World Food Security and the Plan of Action, committing themselves to achieving food security for all with an immediate view to reducing the number of undernourished people to half its present level no later than the year 2015.

3. The Plan of Action took the form of seven Commitments to ensure that all people at all times had physical and economic access to sufficient, safe and nutritious food. Throughout the Commitments, stress was laid on the need to ensure full respect for human rights and fundamental freedoms, including the right to development, and the progressive realization of the right to adequate food for all. The most fundamental right for achieving food security for all was that in article 11 of the International Covenant on Economic, Social and Cultural Rights, namely, the right to adequate food and the fundamental right of everyone to be free from hunger.

4. To that end, the Governments gathered at the Rome Summit had committed themselves in partnership with all actors of civil society, to make every effort to implement the provisions of article 11 of the Covenant and relevant provisions of other international and regional instruments. They had urged States that were not yet parties to the Covenant to accede to it at the earliest possible time. They had invited the Committee on Economic, Social and Cultural Rights to give particular attention to the Rome Plan of Action in the framework of its activities and to continue to monitor the implementation of the specific measures provided for in article 11 of the Covenant.

5. They had invited the United Nations High Commissioner for Human Rights, in consultation with the relevant treaty bodies, better to define the rights related to food in article 11 of the Covenant and to propose ways to implement and realize those rights as a means of achieving the Commitments and objectives of the World Food Summit, taking into account the possibility of formulating voluntary guidelines for food security for all.

6. The Summit had stressed the necessity for coordinated action by all Member States, the United Nations system and all actors in civil society if the ambitious goals of the Summit were to be realized. The Committee on

Economic, Social and Cultural Rights, together with the Commission on Human Rights and the High Commissioner/Centre for Human Rights, were being asked to take the lead in that area. On behalf of the Director General, he reaffirmed FAO's pledge of technical support in the challenging task of implementing the commitment of the world's leaders in the area of the right to food.

7. Mr. GRISSA said he feared that the deadline for reducing the number of undernourished people to half their level, namely, 2015, was too far way, especially as the number of victims of hunger would be increasing due to population growth. In his view, the target was not sufficiently ambitious.

8. Mr. TEXIER said he was pleased to see that FAO and the Committee had common objectives and that a desire to cooperate existed. Unfortunately, the Committee had not set about cooperating with the specialized agencies in the right way, with the exception of the ILO, which, by its very nature, was concerned with articles 6 to 9 of the Covenant in all their aspects. Instead of occasional participation in the Committee's work by an FAO expert, the two bodies might conduct a more thorough study of the right to adequate food, perhaps in the framework of a seminar. The members of the Committee did not have the objective criteria to determine what represented adequate food. FAO, for its part, needed the Committee's insight on the way in which the violation of one right could have consequences for all the other human rights. A dialogue between the Committee and FAO could therefore not fail to be fruitful, it being understood that the non-governmental organizations would be able to participate.

9. Mr. RATTRAY said that the right to food was the most basic of human rights and that it was the obligation of all States to ensure the availability of food at both the national and international levels. He would therefore like to know the extent of cooperation between FAO and the World Trade Organization (WTO), especially as many countries feared that their own food security would be jeopardized by the upheavals resulting from the application of certain WTO principles that might lead to the dumping of foodstuffs. In other words, the countries seeking to realize the right to adequate food might find their development plans hindered by conflicting efforts within the international community.

10. Mr. ANTANOVICH said that the FAO Declaration was timely, but that the seven Commitments of the Rome Plan of Action brought to mind the Ten Commandments: it had taken a long time to formulate them and it would take just as long to implement them. The main problem was the lack of follow-up and, if countries did not assume their responsibilities, the seven Commitments would never be implemented. The Plan of Action was an important initiative which should not be consigned to oblivion.

11. Mr. RIEDEL said that Commitment seven of the Plan of Action was the one which related to the Committee's mandate, in particular objective 7.4, which asked for particular attention to be paid to implementation and full and progressive realization of the right to adequate food as a means of achieving food security for all. FAO would do well to participate regularly in the Committee's work, which could be of benefit to it, in particular from the human rights viewpoint referred to by Mr. Texier.

12. Mr. MOORE (FAO) emphasized the multidimensional nature of the follow up of the World Food Summit and the need for concerted action encompassing all aspects of the right to adequate food: agricultural production, irrigation, human rights, etc. The battle for food security had to be waged on all fronts and was an issue that had not always received the attention it deserved.

13. Replying to Mr. Rattray's question on the dialogue between FAO and WTO, he noted that one of the commitments of the Rome Plan of Action had to do with the impact of trade on food security. The World Food Summit had asked FAO to make its Committee on World Food Security (CFS) the agency in charge of following up the Plan of Action, with the participation of all interested organizations and actors, including WTO. WTO had thus been invited to participate fully in the work of CFS and to prepare a report on the impact of trade on food security. NGOs working in the area of food security had also participated in the work of CFS.

14. In reply to the concern expressed by Mr. Grissa, he acknowledged that many of the Summit's participants had found that reducing the number of undernourished people by half by 2015 was not a sufficiently ambitious objective. In his view, however, it was a realistic one given the considerable efforts that would be needed to achieve it. He assured Mr. Grissa that the factor of population growth would be taken into account by CFS, which was aware of the need to consider all questions having an impact on food security: agricultural production, demographic policy, elimination of poverty, etc. That approach was indispensable for achieving an objective that was admittedly ambitious, but also essential.

15. The CHAIRPERSON said that, in accordance with Mr. Texier's proposal, the Committee might prepare a general comment on the right to adequate food and explore very specific means of cooperating more extensively with CFS. Given the two entities' complementary roles, the Committee might use CFS documentation and data to follow up the Rome Plan of Action from a human rights point of view. He hoped to see representatives of FAO participate more frequently in the Committee's work.

16. Mr. Moore (FAO) withdrew.

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Third periodic report of the Russian Federation (E/1994/104/Add.8; HRI/CORE/1/Add.52/Rev.1; E/C.12/Q/RUS.1; E/C.12/A/RUS.1) (continued)

17. The CHAIRPERSON invited the Russian delegation to reply to the questions asked by the members of the Committee at the preceding meeting.

18. Mr. VAROV (Russian Federation) said that he would first reply to the Committee's written questions and then to the questions which the delegation had been asked at the preceding meeting. Regarding the non-discrimination provision in article 2, referred to in question 5, he said that the Committee had already been provided with statistical information on the various ethnic groups living in the Russian Federation. In reply to questions 6 and 8, he

said that the prohibition set forth in the Covenant against discrimination based on ethnic or national affiliation or any other ground was a principle that was an integral part of Russian legislation, beginning with the 1993 Constitution. The laws did not in any way impede the achievement of the rights to land ownership, tenancy and use of land by the different ethnic groups. In practice, however, the laws were not always strictly applied, but the Government had taken and was continuing to take vigorous and constructive measures - notably administrative measures that took account of the ethnic groups' special features - in an attempt to solve the problem. In the northern part of the country, the authorities focused their efforts on introducing regulations governing the indigenous peoples' land and natural resources with a view to eliminating any tensions between the people and certain agencies.

19. The CHAIRPERSON reminded the delegation that, in order to make it easier for the Committee to formulate conclusions on the report of the Russian Federation, it should reply directly to the questions asked or provide precise and detailed information on the current situation in the country.

20. Mr. GRISSA noted that the report contained a large amount of information, but that the information was not always complete. He would like to obtain fuller information, not on legislation, but on the actual situation in the country (payment of wages, for example).

21. The CHAIRPERSON said that some flexibility was necessary; the questions should be tackled in the order in which they arose if a genuine dialogue was to be established.

22. Mr. SA'DI said that the members of the Committee should be a bit more indulgent towards the Russian delegation. In his view, the description of the national legislation was useful - even if the information did not directly correspond to the questions asked - for it would make it possible to determine whether there was a gap between the de jure and de facto situations with regard to the rights of interest to the Committee.

23. Mr. PILLAY asked why the Russian delegation had not provided written replies to the specific questions the members of the Committee had asked it.

24. The CHAIRPERSON, replying to Mr. Pillay, noted that the Russian authorities had sent written replies, but too late for them to be translated into the other languages.

25. Mr. ADEKUOYE, referring to paragraph 59 of the report on the virtual destruction of the State labour protection system, said that he would like clarifications on the steps taken by the Government to close the gap between the legislation and the actual situation in the country.

26. Mr. VAROV (Russian Federation), referring to violations of the rights of ethnic groups, said that, as the report indicated, the Government was concerned not only with establishing the facts, but, above all, with establishing laws against such activities and ensuring that such violations

did not occur again. Regarding the northern territories, in addition to the actual legal texts, special agreements were being concluded between the municipalities and the different ethnic communities.

27. With regard to respect for the right to work of citizens of the Russian Federation, he reviewed the results of the activities of the recently introduced Labour Monitoring Centre. In 1996, the Labour Monitoring Centre had conducted 320,000 inspections in all. Of the 60,000 inspections involving wage-related matters, the labour inspectors had found illegal withholding of wages in 50,000 cases. The victims had obtained compensation. In addition, the inspections had enabled 3,000 persons unfairly dismissed to find jobs and prevented 10,000 others from being arbitrarily dismissed. Some 33,000 businessmen in the private and public sectors had been sentenced to fines. Regarding safety in the workplace, he said that more than 100 enterprises had had to close down when inspections had shown that they were failing to respect prevailing standards. On another matter, the situation had improved considerably for various population groups, including women and the disabled, with regard to respect for the right to work. In other words, the Labour Monitoring Centre was operating relatively well and bore witness to the Government's determination to protect its citizens' right to work.

28. In reply to question 16 on unemployment, he said that the number of job-seekers in the Russian Federation was calculated according to two methods: one, which was used in the former Soviet Union, estimated the number of job-seekers at 3 million and the other, that of the ILO, evaluated them at some 7 million. Whatever the case, the unemployment situation was serious; the State and business leaders were trying to check the increase in the number of unemployed and hoped that positive economic changes would return the situation to normal in the near future. Young workers and women were the most severely affected by unemployment: women represented 60 per cent of unemployed people. That was the result of the fact that certain branches of industry with a high representation of women, in particular light industry, were being restructured.

29. Referring to the information requested in question 17 on the growth of the employment of children below the legal working age, he said that the legal working age was 16, 15 in exceptional cases, and that the increase was the result of the economic difficulties besetting many families, especially large families. There were no statistics available on the number of minors seeking employment, but that number was increasing from month to month. Employment exchanges had been established for young workers in accordance with the provisions of the law, which laid down strict regulations for minors' working hours, which it set at a maximum of four hours per day. In the formal sector, where workers had a contract, violations were quite rare, but that was not the case in the informal sector, where, for example, minors were frequently employed in dangerous jobs. There were, however, various programmes implemented by the Government, as well as laws aimed at providing large families with financial support. Such families were allotted an amount equivalent to half the minimum wage per child through the end of schooling. The Labour Code stipulated that minors must receive the same wage as adults. Minors were frequently better paid in the private sector than the public sector.

30. Turning to questions 18 to 20 of the list of issues, he said that, as far as security measures were concerned, labour inspection services had been re-established at practically all levels of Government and that investigations had been opened into several industrial accidents with a view to strengthening protection mechanisms. When those measures had been implemented in 1996, it had been discovered that 150 fatal industrial accidents had not been declared by the management and the families had thus been able to demand compensation. Special measures were also being taken to ensure safety in the workplace. One programme, about to be adopted, included very strict labour protection measures, aimed at achieving a considerable improvement in the situation by the year 2000. Statistics were already showing a decrease in fatal accidents, owing partly, it was true, to the drop in production, but also to the implementation of stricter control measures. As the 1996 State budget had not allocated any funds to those objectives, it had been decided, with the support of the President of the Russian Federation, to assign the income from fines for violation of the labour legislation, namely 11 billion roubles, to financing safety measures in the workplace.

31. Turning to questions 24 and 25 of the list of issues, he explained that trade-union pluralism had been achieved in the Russian Federation and that the new trade-union legislation protected the unions' rights. In addition to the traditional unions, there were 60 or so unions of a new type in various sectors of the Federation, unions that had been established in a free and independent manner, with no need for Government authorization. The unions participated in the process of developing the social partnership, in particular in matters relating to the right to work. Both legislation and practice respected the social partnership system and the principles of the tripartite system. Thus, at the State level, the Russian Tripartite Commission included 30 employers' associations, 30 trade unions and 30 government representatives. The tripartite structure was also found at the regional and district levels. In 1996, 70 sectoral agreements had been concluded at the State and regional levels and nearly 160,000 collective contracts had been concluded by businesses. All that work, which had been made possible by a far-reaching set of laws, was being hindered by the economic, structural and financial problems which everyone knew the Russian Federation was now facing.

32. Mr. SA'DI, referring to article 3 of the Covenant on equality between men and women, asked whether it was accurate to say that there had been greater equality between men and women under the former regime than there was at present. How was it that women, who appeared to be more severely hit by unemployment that was partially the result of the new economic reforms, continued to bear the brunt of those reforms? Was it correct to say that a sophisticated market economy had been replaced by a policy of laissez-faire in the Russian Federation? Was it true that the new reforms had caused prostitution in the country to increase, along with drug addiction and crime? Was it true that the environment was being neglected because high priority was being given to economic factors? With regard to safety in the workplace, did the law make employers legally responsible for industrial accidents?

33. Mr. RIEDEL, referring to the increase in the number of labour rights violations mentioned in paragraphs 19 and 20 of the report and questions 12 and 13 of the list of issues, asked what practical measures the

Russian Federation was taking to relieve court congestion. Were there plans to increase the number of judges or settle some cases out of court? How long did such proceedings last?

34. Mr. GRISSA asked what specific steps were being taken to enforce the law, which did after all exist, and to redress the violations mentioned in the report, particularly those involving industrial accidents (paras. 32, 34, 57 and 59). With regard to the employment of young persons, as referred to in paragraph 49 of the report, he noted that the obligation of States parties was to protect children's rights, in particular to education and health, rather than provide them with labour structures. What was the Russian Federation doing to solve those problems, which were unacceptable?

35. Mr. CEAUSU said that he would like to hear more about the results of the employment promotion programmes mentioned in several places in the report.

36. In connection with large-scale human rights violations involving the payment of wages, which the report acknowledged, he referred to an information file prepared by the International Confederation of Free Trade Unions indicating that, in February 1997, the total amount of wages in arrears had been 49 trillion roubles, or US$ 9 or 10 billion, half of which was directly attributable to the Government. Paragraph 26 of the report stated that 250 of the 263 strikes referred to the courts had been found to be illegal. As the purpose of those strikes had been to obtain payment of wages in arrears, that raised questions about the soundness of Russian legislation, which supported employers who did not pay their workers' wages and did not allow the workers to fight for what was owed to them. What action or omission by the Government had helped bring about that situation?

37. He was also concerned about the information in paragraphs 33 and 35 of the report on labour safety and asked why the Russian Government was not able to enforce labour legislation in private sector enterprises. With regard to unemployment, there was a lack of consistency between the figures given in paragraphs 47 and 206 of the report. His general impression was that the authorities were not taking adequate measures to settle the problems described in the report.

38. Mr. TEXIER, referring to the implementation of article 6 of the Covenant, expressed concern about the information provided by the International Confederation of Free Trade Unions (ICFTU) on delays in the payment of wages and on non-payment of wages. The arrears apparently amounted to US$ 10 billion, US$ 2 billion of which was directly attributable to the federal Government and regional governments. How were the authorities dealing with that problem? He endorsed the three proposals that the ICFTU had made to the Russian Government: (1) pay the back wages it owed; (2) introduce penalties for non-payment of wages and see to it that the law was strengthened; and (3) ratify ILO Conventions Nos. 173 (protection of workers' claims in the event of the insolvency of their employer) and 158 (termination of employment).

39. On the question of dismissal, he asked whether the courts made a distinction between individual dismissal and collective dismissal or

redundancy. What guarantees was the dismissed worker given in each case? Was he entitled to benefits and, if so, what kind? Was an enterprise that carried out a collective dismissal obliged to prepare a retraining plan?

40. Referring to the implementation of article 7 of the Covenant, he asked whether any economic, legislative or other measures were being planned to raise the minimum wage to a level that would allow a worker and his family to live a decent life, in conformity with the provisions of the Covenant. As to article 8, he asked whether trade union pluralism existed and whether any steps had been taken in that area. What about the right to strike? What regulations governed strikes? How did the regulations limit the right to strike?

41. Mr. WIMER asked how widespread anti-Semitism and other forms of racial discrimination really were and what means existed for detecting racism in the workplace.

42. Mr. ADEKUOYE asked what measures the authorities were planning to take to settle the financial problems arising from unpaid taxes in the short-term and in the medium-term. As far as the implementation of article 8 of the Covenant was concerned, he asked the Russian delegation whether the fact that the official Communist trade unions were still operating negated or diluted trade union freedom and independence.

43. Mr. VAROV (Russian Federation), replying to a question by Mr. Sa'di, said that, for the time being, the rights of women were not better protected than they had been in the Soviet Union era, but neither were those of other workers. What had changed was the fact that it was now possible to obtain and publish information on violations of the legislation. New types of violations had also emerged. In the former USSR, 14 to 16 million workers had not had the right to go to court and most victims of violations of the right to work had not lodged complaints because it would have been pointless to do so.

44. He agreed with Mr. Sa'di that safety in the workplace had deteriorated since the break-up of the USSR. At the time, there had been no private enterprises and unemployment had not existed. The situation needed improvement in that regard. He personally believed that unbridled capitalism was unavoidable in the initial stage owing to the lack of legislation. The situation with regard to prostitution had worsened, but prostitution was limited to the major cities and did not exist in the rest of the country. The local authorities had taken administrative measures to lay down regulations for prostitution, which was not punishable by law.

45. In reply to a question by Mr. Sa'di, he said that an article of the Labour Code and a law dealt with labour protection. An administrative code defined administrative responsibility for safety in the workplace and provided for fines as high as 8.5 million roubles. There had been a proposal in Parliament to raise that amount to 200 times the minimum wage. There had also been a proposal to provide for criminal responsibility in the event of the non-payment of wages or the violation of other rights. Article 143 of the Penal Code provided for sentences of up to 10 years' imprisonment for persons responsible for serious or fatal industrial accidents.

46. Replying to Mr. Riedel on the question of arbitrary dismissals, he said that, in the past 18 months, legislation in that area had been improved. The President had even empowered the Labour Monitoring Centre to apply to the tax authorities and to use force to be able to visit workplaces. Although it was true that large-scale redundancies were the result of economic problems, he acknowledged that many of them had been carried out unlawfully. He pointed out that the Labour Monitoring Centre and the judicial authorities were facing numerous difficulties. In 1996, only 30 per cent of judicial decisions in favour of plaintiffs who had sued for non-payment of wages had been enforced, because the debtors had been unable to pay. In the 1997 State budget, expenditures allocated to judicial matters had a special status and could not be cut. The Government was attempting to increase judicial personnel and introduce practices used by the European countries (industrial tribunals, arbitrage, tripartite conciliation commissions). Not only the State, but society, too, must be strengthened if violations of the right to work were to be combated more effectively.

47. Replying to Mr. Grissa, he acknowledged that the figures in the periodic report (E/1994/104/Add.8) needed to be corrected, especially as the report had been prepared in 1995 and many changes had occurred since then. With regard to the employment of women, he said that no cases of pregnant women working at night had been reported in 1996. As the rule of law had not formerly existed, an entire set of basic laws needed to be adopted initially, after which efforts could concentrate on enforcing that legislation.

The meeting rose at 1 p.m.